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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/699,485

10/30/2003

Bradley G. Vernon

3153

20995

7590

01/12/2006

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EXAMINER

MATTHEWS, TERRELL HOWARD

ART UNIT

PAPER NUMBER

3654

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/699,485

Applicant(s)

VERNON ET AL.

Examiner

Terrell H. Matthews

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4 and 6-19 is/are pending in the application.
- 4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4,6-9 and 13-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/12/04</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

***Final Rejection***

Applicant's arguments filed 12/27/05 have been fully considered but they are not persuasive for reasons as detailed below.

The prior art rejections are maintained or modified as follow:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 6-9, 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jameson (5395148) in view of Lantz (1927873).

Referring to claim 4, 6-7. Jameson discloses a "Magnetic Rake" as claimed. See Figs. 1-6 and respective portions of the specification. Jameson further discloses a magnetic rake (10) comprising one or more magnets (60); a hollow, unitarily formed, rake body (20) containing the magnets; and a handle (50) attached to the rake body. Jameson does not disclose that the rake body is toothed. Lantz discloses a "Holding Rake" as claimed. See Figs. 1-6 and respective portions of the specification. Lantz

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further discloses a toothed rake body (See Fig. 1-2). Furthermore, Lantz discloses that the toothed rake body (1) is made of a single piece of aluminum casting (See Pg. 1 l. 3-12). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Jameson to include an aluminum toothed body as taught by Lantz so that the teeth could agitate and pull up particles from the ground.

Referring to claim 8. Jameson discloses a handle (50) that is connected to the rake body (10) (See Figs. 1,3-4). Jameson does not disclose that the handle is detachably connected to the rake body using a mechanical system. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Jameson so that the handle could be attached through a mechanical system so that it could be stored and packaged easily.

Referring to claim 9. Jameson discloses a handle (50) that is permanently attached to the rake body (See Figs. 1,3-4).

Referring to claim 13-14,16-19. Jameson discloses a method of collecting Ferro-magnetic items from a surface area, the method comprising the acts of operating over a surface area a hollow, unitarily formed rake body (20), that contains at least one magnet (60) inside; and allowing Ferro-magnetic items from the surface area to collect on the rake body (See Col. 1 l. 25-28 & Figs. 1,3-4). Jameson does not disclose a toothed rake body. Lantz discloses the invention as described above in detail. Lantz further discloses a toothed rake body (1). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Jameson to include an aluminum toothed body as taught by Lantz so that the teeth could agitate and pull up

particles from the ground. It should be noted and understood that Lantz teaches a toothed rake body that comprises triangular teeth (See Fig. 2) as well as non-triangular teeth (See Fig. 1).

Referring to claim 15. Jameson does not disclose inverting the rake body so that a toothed portion of the hollow unitarily formed toothed rake body faces away from the surface area. However, it would have been obvious to a person of ordinary skill in the art that the method of inverting the rake body so that the teeth faced away from the surface area could be performed so that you did not agitate the ground but were still able to magnetically attract Ferro-magnetic particles.

### ***Response to Arguments***

Applicant's arguments with respect to claims 4-9,13-19 have been considered but are moot in view of the new ground(s) of rejection. Examiner has maintained the prior art rejections, statutory rejections and drawing objections as previously stated and as modified above. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Conrad U.S. Patent No. 5979957 discloses a "Rolling Magnetic Rake" comprising a handle, an axle, permanent magnets, and a handle fitting.

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571) 272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

THM

A handwritten signature in black ink that reads "Kathy Matecki". The signature is written in a cursive, flowing style.

**KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600**